

COMPLAINT INVESTIGATION SUMMARY

COMPLAINT NUMBER: 1703.01
COMPLAINT INVESTIGATOR: John Hill
DATE OF COMPLAINT: March 5, 2001
DATE OF REPORT: April 3, 2001
REQUEST FOR RECONSIDERATION: no
DATE OF CLOSURE: August 9, 2001

COMPLAINT ISSUES:

Whether the Brownsburg Community School Corporation and the West Central Joint Services violated:

- 511 IAC 7-27-7(a) with regard to the school's alleged failure to implement the student's individualized education program (IEP) as written, specifically, failing to provide speech therapy as required.
- 511 IAC 7-27-7(b) and 511 IAC 7-17-72 with regard to the school's alleged failure to ensure the student's teacher of record regularly monitored the implementation of the student's IEP.
- 511 IAC 7-21-2(a) with regard to the school's alleged failure to ensure that personnel employed or contracted to provide special education are appropriately licensed or certified to provide the services for which the individual has been employed, specifically, failing to provide a licensed speech therapist.
- 511 IAC 7-27-6(a)(5) with regard to the school's alleged failure to appropriately specify in the IEP the length of speech therapy services to be provided to the student, specifically, designating the length of speech therapy services in a range of minutes without including in the IEP the evaluative criteria to determine the actual number of minutes of speech therapy the student will receive at any given time.

FINDINGS OF FACT:

1. The student (Student) is a seven-year-old, kindergarten student who is eligible for special education and related services due to a Communication Disorder.
2. The student's speech-language pathologist was placed on medical leave on February 7, 2001. The school secured a temporary replacement speech-language pathologist on March 2, 2001. At the time of her medical leave, the speech-language pathologist was providing direct speech therapy services to 40 students, including the student in this complaint.
3. The CCC Summary/IEP, dated September 11, 2000, indicates that the Student is to receive 90 to 120 minutes per month of direct speech-language services. The Student has received the following monthly amount of speech language services:

-	September 2000	=	80 minutes;
-	October 2000	=	120 minutes;

–	November 2000	=	100 minutes;
–	December 2000	=	120 minutes;
–	January 2001	=	120 minutes;
–	February 2001	=	20 minutes; and
–	March 2001	=	0 minutes.

4. The IEPs for 29 students on the speech-language pathologist's caseload also describe the length of speech services as a range of minutes per month. None of these 29 students received even the minimum number of minutes of speech therapy during the month of February 2001. Another 10 students whose IEPs identify a specific number of minutes of speech therapy did not receive the specified amount of speech therapy in February, 2001.
5. The temporary replacement speech-language pathologist secured by the school is a licensed speech, language and hearing clinician.

CONCLUSIONS:

1. Findings of Facts #2 and #3 reflect that the school failed to provide speech therapy services as required by the Student's IEP. Finding of Fact #4 indicates the school failed to provide speech therapy services in accordance with the IEPs of 39 other students. Therefore, a violation of 511 IAC 7-27-7(a) is found.
2. Findings of Facts #2 and #3 establish that the school failed to provide speech therapy services in accordance with the Student's IEP as a result of the absence of the regular speech-language pathologist. The speech-language pathologist's absence and the school's failure to immediately obtain a replacement are beyond the control of the Student's TOR. Although the IEP was not implemented as written, it was not due to any failure on the part of the TOR to monitor the implementation of the IEP. Therefore, no violations of 511 IAC 7-27-7(b) and 511 IAC 7-17-72 are found.
3. Finding of Fact #5 indicates that the student's temporary speech language therapist is appropriately licensed. Therefore, no violation of 511 IAC 7-21-2(a) is found.
4. Findings of Fact #3 and #4 demonstrate that the school failed to appropriately specify in the IEP the length of speech therapy services to be provided to this Student and 29 other students, specifically, designating the length of speech therapy services in a range of minutes without including in the IEP the evaluative criteria to determine the actual number of minutes of speech therapy the student will receive at any given time. Therefore, a violation of 511 IAC 7-27-6(a)(5) is found.

The Department of Education, Division of Special Education requires the following corrective action based on the Findings of Fact and Conclusions listed above.

CORRECTIVE ACTION:

The Brownsburg Community School Corporation and the West Central Joint Services shall:

1. In-service all appropriate staff that using a "range" of minutes or times per week to describe the length or frequency of a special education service doesn't satisfy the requirements of 511 IAC 7-27-6(a)(5) unless the IEP also specifies the criteria for determining the amount of services that will actually be provided to the student. A copy of the State Director of Special Education's February

10, 2000, memorandum on this issue shall be distributed to all staff. Submit documentation to the Division that the in-service has been completed no later than May 15, 2001. The documentation must include a list or agenda of all issues discussed, any handouts that were distributed, and a list of attendees by name and title.

2. Convene the case conference committee for this Student to identify the amount of compensatory speech-language services that the student needs and how those services will be provided (length, frequency, duration). Submit a copy of the CCC Report/IEP to the Division no later than April 18, 2001.
3. Review the IEPs of each of the other 39 students to determine the number of minutes of speech therapy each student missed as a result of the speech-language pathologist's absence. For students whose IEPs identify the length of speech therapy services as a range, the school is to use the maximum number of minutes of the range in determining the number of minutes of therapy missed. The school shall develop a schedule of how speech therapy services will be provided to each student for the remainder of the school year (or through provision of extended school year services) in order to make up the minutes of speech therapy occasioned by the SLP's absence. The schedule must include the number of speech therapy minutes previously missed, when the compensatory speech therapy services will be provided, how long each session will be, and who will provide the therapy. The schedule, including the name of each student, shall be submitted to the Division no later than April 20, 2001.
4. Send a letter to the parents of each of the 39 students, advising them of the interruption of services and identifying the schedule for the student's compensatory services. The letter must also inform the parent of the parent's option to convene the case conference committee to discuss the compensatory speech therapy services. For the 29 students whose IEPs state the length of speech therapy in a range of minutes, the letter is to advise the parent that the student will receive the maximum number of minutes of speech therapy identified in the student's IEP (e.g., when the IEP states 90-120 minutes of speech therapy per month, the student is to receive the full 120 minutes per month). The letters are to be mailed to parents no later than April 24, 2001. A copy of the letter and an assurance statement that letters were mailed to the parents by April 24 must be submitted to the Division no later than April 27, 2001.
5. Submit an assurance statement no later than July 1, 2001, that compensatory speech therapy services were provided to each of the students as indicated.

DATE REPORT COMPLETED: April 03, 2001